

Members

Sen. David Ford, Chairperson
Sen. Richard Bray
Sen. Anita Bowser
Sen. Billie Breaux
Rep. Vanessa Summers
Rep. Ed Mahern
Rep. Cleo Duncan
Rep. Andrew Thomas
John Brandt
Bruce Pennamped
R. Jerome Kearns
Rep. Carolene Mays



INDIANA CHILD CUSTODY AND SUPPORT ADVISORY COMMITTEE

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Authority: IC 33-2.1-10-1

MEETING MINUTES¹

Meeting Date: September 29, 2003
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington
St., Senate Chambers
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Sen. David Ford, Chairperson; Sen. Richard Bray; Sen. Billie Breaux; Rep. Vanessa Summers; Rep. Ed Mahern; Rep. Cleo Duncan; Rep. Andrew Thomas; Bruce Pennamped; R. Jerome Kearns; Rep. Carolene Mays.

Members Absent: Sen. Anita Bowser; John Brandt.

Chairperson Ford called the first meeting of the Indiana Child Custody and Support Advisory Committee ("Committee") to order at 1:00 PM and asked the members of the Committee to introduce themselves.

TESTIMONY REGARDING THE GRANDPARENT VISITATION STATUTE

Karen Wyle's testimony is memorialized in the following documents that were distributed to Committee members:

- "Fixing What's Broke: The Need to Revisit Indiana's Grandparent Visitation

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Statute" (Exhibit #1).

- "Indiana's Current Grandparent Visitation Statute" (Exhibit #2).

- "Draft Revision of I.C. §§ 31-17-5-1 et seq." (Exhibit #3)

- "Supplemental Comments to Suggested Revision of I.C. 31-17-5-1-et seq." (Exhibit #4).

- "Summary of Suggested Changes Made by Draft Revision of I.C. 31-17-5-1" (Exhibit #5).

- "The Problem of Indiana's Grandparent Visitation Statute - Summary Points" (Exhibit #6).

Ms. Wyle also made the following points in her testimony:

- The grandparent visitation statute needs to be revised to reflect current law, the statute does not recognize its potential harm, and the statute invites courts to make unconstitutional decisions.

- In the past, it was more common for a parent to die at a young age resulting in grandparents raising grandchildren.

- Most divorced parents welcome grandparent visitation.

- Indiana's statute should be drafted to minimize litigation and to limit grandparent visitation.

Rep. Thomas remarked that the reason the statute is needed is that many grandparents want to have an active role in the lives of their grandchildren. Rep. Thomas also opined that the statute is constitutional on its face.

Rep. Mays stated that she was concerned about situations in which a parent dies and does not leave a will or instructions regarding who is to raise children. Ms. Wyle explained that grandparents have standing in such a situation and the statute has provisions to deal with those circumstances.

Melanie Gifford testified about litigation her family has been involved in regarding grandparents visitation. Ms. Gifford shared with the Committee how her sister had been murdered by her husband, and the husband's parents sued for grandparent visitation despite not having had a relationship with the children before the murder. Ms. Gifford believes the statute unfairly gave these grandparents visitation rights.

TESTIMONY REGARDING JOINT LEGAL CUSTODY

Committee member Bruce Pennamped stated that the Committee should consider proposing legislation making joint legal custody the rebuttable presumption in dissolution of marriage cases. Mr. Pennamped also suggested that the committee should consider legislation applying joint legal custody standards to paternity actions.

Charles Erickson testified about his personal experiences as a father with joint legal custody of his children. Mr. Erickson explained that although he has joint legal custody of his children, he only gets to see his children about two weekends a month and he is prevented from making 50% of the decisions for his children. Mr. Erickson further explained that without a presumption of joint physical legal custody in a dissolution of marriage case, one of the parents is denied the right to decide for his or her children. Mr. Erickson also made the following documents available to the Committee:

- "Testimony to Indiana's 'Child Custody and Support Advisory Committee'" (Exhibit #7.)

- "The Politics of Family Destruction" (Exhibit #8.)

- "Non-custodial parental rights petition" (Exhibit #9.)

Rep. Thomas stated that he would like to see statistics on how many dissolutions of

marriage result in joint custody and sole custody of children.

TESTIMONY REGARDING ARBITRATION IN FAMILY LAW

Committee member Bruce Pennamped asked to make a presentation at the next Committee meeting regarding arbitration in family law. He also stated that there are advantages to arbitration in family law including that it speeds up litigation. Mr. Pennamped noted that a problem with arbitration is that it is non-binding. Mr. Pennamped also suggested that the Committee should consider legislation to make arbitration binding if the parties involved elect arbitration. Mr. Pennamped also briefly explained how arbitration works in family law.

Rep. Thomas asked if there were any studies of how satisfied people are with arbitration in family law. Rep. Thomas also stated that there are not very many qualified arbitrators outside the large cities in Indiana.

TESTIMONY REGARDING PARENTING TIME

Chairperson Ford stated that he had a bill draft (Exhibit #10) prepared that replaces references to "visitation" with "parenting time" in parental custody statutes to reflect the Indiana Supreme Court's parenting time guidelines.

Steve Johnson, of the Prosecuting Attorney's Council, stated some prosecutors have concerns with the parenting time guidelines including the potential for more litigation, that there should be a higher discount for regular visitation, and that courts should have more discretion related to custody matters.

Robert Beckman, Laporte County Prosecutor, explained the problems his office is going to encounter if the parenting time guidelines go into effect on January 1, 2004, as they are written. Prosecutor Beckman stated:

- His office handles 15,000 child support cases a year and is not adequately staffed now.

- With the new parenting time guidelines, the child support division of his office will spend more time tracking visitation, reviewing evidence of visitations, and engaging in negotiations over visitation.

- The current rules are straightforward and easy to apply.

- Note #6 in the proposed guidelines is difficult to understand and seems to be a financial disincentive for parents. The proposed parenting time credit may provide the custodial parent an incentive to deny parenting time to the non-custodial parent, which may then result in the non-custodial parent being denied a monetary credit for regular visitation.

Daphne Risch and Karla Matia, of the Child Support Bureau of the Indiana Family and Social Services Administration, testified that they concurred with Steve Johnson's concerns about the parenting time guidelines. They added that more people are going to need to hire attorneys to deal with the proposed procedures, and federal funds may be jeopardized with the new rules.

Sen. Bray suggested that the Committee should attempt to delay the implementation of the guidelines.

Chairperson Ford suggested that the Committee write a letter to the Supreme Court, with the approval of the Senate and House Leadership, to delay the implementation of Guideline 6 of the new Indiana Child Support Rules and Guidelines. Senator Breaux, Rep. Summer and Rep. Thomas agreed to author legislation to not have Guideline 6 go into effect and to keep the current rule in place. Chairperson Ford took a roll call vote and the Committee unanimously agreed in a 7-0 vote that a letter should be written, subject to

Senate and House leadership approval.

NATIONAL LEGISLATORS SYMPOSIUM ON CHILD SUPPORT

Rep. Summers reported on her and Sen. Bray's trip to the National Legislators Symposium on Child Support. Rep. Summers stated that there is a problem in other states with private child support collection agencies taking up to 1/3 of money collected. Rep. Summers asked if this was a problem in Indiana and she stated that these companies should be regulated. Rep. Summers also inquired whether putative fathers in Indiana had alternatives to jail if they failed to make payments. Rep. Summers also inquired if lottery or gambling winnings could be intercepted for child support in Indiana.

SELECTION OF NEXT MEETING DATE AND ADJOURNMENT

Chairperson Ford selected the next Committee meeting date for October 16, 2003 at 1:00 P.M.

The meeting was adjourned at 4:00 P.M.